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BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
ROBERT SULLIVAN dba CROWN
CEDAR PRODUCTS,

Appellant,

v.

PUGET SOUND AIR POLLUTION
CONTROL AGENCY,

Respondent.

PCHB No. 79-204

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

THIS MATTER, the appeal from a \$250 civil penalty for the alleged violation of Section 9.03 of respondent's Regulation I, having come on regularly for formal hearing on the 11th day of February, 1980 in Seattle, Washington, and appellant appearing pro se, and respondent, Puget Sound Air Pollution Control Agency, appearing through its attorney, Keith D. McGoffin with Nancy E. Curington, hearing officer presiding, and the Board having considered the exhibits, records and files herein, and having reviewed the Proposed Order of the presiding officer mailed to the parties on the 25th day of February, 1980, and

1 more than twenty days having elapsed from said service; and

2 The Board having received no exceptions to said Proposed Order and
3 the Board being fully advised in the premises; NOW THEREFORE,

4 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said Proposed
5 Order containing Findings of Fact, Conclusions of Law and Order dated
6 the 25th day of February, 1980, and incorporated by reference herein
7 and attached hereto as Exhibit A, are adopted and hereby entered as
8 the Board's Final Findings of Fact, Conclusions of Law and Order
9 herein.

10 DATED this 28th day of March, 1980.

11 POLLUTION CONTROL HEARINGS BOARD

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14 NAT W. WASHINGTON, Chairman

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16 CHRIS SMITH, Member

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18 DAVID AKANA, Member

1 CERTIFICATION OF MAILING

2 I, Trish Ryan, certify that I mailed, postage prepaid, copies
3 of the foregoing document on the 28th day of March, 1980, to
4 each of the following-named parties at the last known post office
5 addresses, with the proper postage affixed to the respective
6 envelopes:

7 Robert Sullivan
8 dba Crown Cedar Products
9 8716-428th Avenue
 North Bend, WA 98045

10 Keith D. McGoffin
11 Rovai, McGoffin and Turner
 818 South Yakima Avenue
 Tacoma, WA 98405

12 Ron L. Busby
13 Puget Sound Air Pollution
14 Control Agency
 P.O. Box 9863
 Seattle, WA 98109

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20 Trish Ryan
21 TRISH RYAN
22 POLLUTION CONTROL HEARINGS BOARD
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BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
ROBERT SULLIVAN dba CROWN)
CEDAR PRODUCTS,)
Appellant,)
v.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 79-204

PROPOSED FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

This matter, the appeal of a \$250 civil penalty for the alleged violation of Section 9.03 of respondent's Regulation I, came before the Pollution Control Hearings Board at a formal hearing in Seattle on February 11, 1980. Nancy E. Curington presided.

Appellant appeared pro se; respondent was represented by its attorney, Keith D. McGoffin.

Having heard the testimony, examined the exhibits and considered the contentions of the parties, the Pollution Control Hearings Board makes these

Exhibit A

FINDINGS OF FACT

I

Pursuant to RCW 43.21B.260, respondent has filed a certified copy of its Regulation I and amendments thereto, which are noticed.

II

On October 30, 1979 at approximately 12:17 p.m. while on routine patrol, respondent's inspector observed smoke emanating from a burner at Crown Cedar. From a distance of 400-500 feet, the inspector took photographs and, after positioning himself, he observed the light blue plume and recorded opacities ranging from 5% - 100% for 43 minutes. He observed opacities exceeding 20% for 35-1/2 minutes of the 43 minutes of observation. That same day, the inspector mailed Notice of Violation No. 16862 to the appellant; later that day, a corrected copy of the Notice of Violation was mailed to the appellant. On November 27, 1979, respondent sent by certified mail Notice and Order of Civil Penalty of \$250 for the alleged violation of Section 9.03(b) of respondent's Regulation I. The Notice and Order of Civil Penalty is the subject of this appeal.

III

Section 9.03 of respondent's Regulation I makes it unlawful for any person to cause or allow the emission of any air contaminant for a period totaling more than three minutes in any one hour which is of an opacity equal to or greater than 20%.

Section 3.29 of Regulation I provides for a civil penalty of up to \$250 each day for each violation of Regulation I.

IV

The supervisor of Crown Cedar Products was on duty on October 30, 1979. Before leaving for lunch at 11:30 a.m., he wet down the burner with water in order to prevent a self-starting fire. When he returned to the shake mill at 12:15 p.m., he saw a small amount of smoke coming from the burner. He then entered the mill and turned on the blower in order to fan the fire.

V

Appellant has appeared before the Board several times in the past for similar air quality violations (PCHB Nos. 860, 1065, 77-78, 77-151, 78-6, 78-63, 78-132, 78-180). Although the civil penalties have sometimes been conditionally suspended, all have been affirmed.

VI

Any Conclusion of Law which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings the Board comes to these

CONCLUSIONS OF LAW

I

Appellant violated Section 9.03 of respondent's Regulation I as alleged on October 30, 1979 by allowing an air emission of smoke in excess of the limits established by the regulations.

II

In view of the appellant's past history and the circumstances of this case, the civil penalty imposed by respondent is not unreasonable and should be affirmed.

III

Any Finding of Fact which should be deemed a Conclusion of Law is hereby adopted as such.


From these Conclusions the Board enters the following

ORDER

The \$250 civil penalty is affirmed.

DATED this 25th day of February, 1980.

POLLUTION CONTROL HEARINGS BOARD


NANCY E. CURINGTON
Administrator